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Dr. Sheila Addison

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MASTERFILE CORPORATION, a  
Canada Corporation,

Plaintiff,

v.

DR. SHEILA ADDISON, an individual,  
Defendant.

Case No. 3:16-cv-00293-LB

**DEFENDANT DR. SHEILA ADDISON'S  
ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
COMPLAINT FOR COPYRIGHT  
INFRINGEMENT**

Defendant Dr. Sheila Addison ("Dr. Addison") hereby files this Answer and Affirmative Defenses to Plaintiff Masterfile Corporation's ("Masterfile" or "Plaintiff") Complaint for Copyright Infringement ("Complaint"). Except as expressly admitted below, Dr. Addison denies each and every allegation set forth in the Complaint. Any factual allegation admitted below is admitted only as to the specific admitted facts, and not as to any purported conclusions, characterizations, implications, or speculations that might follow from the admitted facts.

**THE PARTIES TO THE COMPLAINT**

1. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and therefore denies them.

2. Dr. Addison admits that she is a marriage and family therapist residing in this District. Dr. Addison denies the remaining allegations in Paragraph 2.

**JURISDICTION AND VENUE**

3. Dr. Addison admits that the Complaint purports to set forth a claim for copyright infringement arising under the federal Copyright Act of 1976, but denies that Masterfile's claims have merit. Dr. Addison admits that this Court has subject matter jurisdiction over copyright infringement suits under 28 U.S.C. §§ 1331 and 1338(a).

4. Dr. Addison admits that this Court has personal jurisdiction over her. Dr. Addison denies the remaining allegations in Paragraph 4.

5. Dr. Addison admits the allegations in Paragraph 5.

**OPERATIVE FACTS**

6. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

7. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

8. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

9. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

10. Dr. Addison admits that the image embedded in Paragraph 6 of the Complaint appears to be fixed in a tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph, and on that basis denies them.

11. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

12. Dr. Addison lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph, and on that basis denies them.

13. Dr. Addison admits that she operates a website at [www.drsheilaaddison.com](http://www.drsheilaaddison.com), but denies the remaining allegations in this Paragraph.

1           14. Dr. Addison admits that she caused the display of an image on her website that  
2 appears to be similar in some regards to the image referenced in this Paragraph, but lacks  
3 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
4 this Paragraph, and on that basis denies them.

5           15. Dr. Addison admits that Masterfile purported to contact her in 2013 regarding  
6 alleged copyright infringement, but denies the remaining allegations in Paragraph 15.

7           16. Dr. Addison admits that on or around April or May of 2013, she removed the  
8 presence of the disputed image from her website, but denies the remaining allegations in  
9 Paragraph 16.

10           17. Dr. Addison admits that she corresponded with Masterfile in May 2013, but denies  
11 that Masterfile corresponded in good faith. Dr. Addison denies the remaining allegations in this  
12 Paragraph.

13           18. Dr. Addison admits that she has authored a website post beginning with “Hi - Just  
14 as I was starting to hope the clock would run out on this demand from Masterfile . . . ,” but  
15 denies the remaining allegations in this Paragraph.

16           19. Dr. Addison lacks knowledge or information sufficient to form a belief as to the  
17 truth of the allegations in this Paragraph, and on that basis denies them.

18                           **FIRST [ALLEGED] CAUSE OF ACTION**

19           20. Dr. Addison incorporates by reference Paragraphs 1-19 above.

20           21. Dr. Addison lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations in this Paragraph, and on that basis denies them.

22           22. Dr. Addison admits that she caused the display of an image on her website that  
23 appears to be similar in some regards to the image referenced in this Paragraph, but denies the  
24 remaining allegations in Paragraph 22.

25           23. Dr. Addison denies the allegations in Paragraph 23.

26           24. Dr. Addison has not paid monetary compensation to Masterfile. Dr. Addison lacks  
27 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
28 this Paragraph, and on that basis denies them.

## PRAYER FOR RELIEF

0           1.       Masterfile’s prayer for relief sets forth the statements of relief requested by  
1       Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
2       requested relief and denies any allegations contained in this Paragraph.

3. Masterfile's prayer for relief sets forth the statements of relief requested by Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the requested relief and denies any allegations contained in this Paragraph, particularly since Masterfile has suffered no damages attributable to Dr. Addison.

23           5.       Masterfile's prayer for relief sets forth the statements of relief requested by  
24       Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
25       requested relief and denies any allegations contained in this Paragraph.

1           7.       Masterfile's prayer for relief sets forth the statements of relief requested by  
2 Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
3 requested relief and denies any allegations contained in this Paragraph.

4           8.       Masterfile's prayer for relief sets forth the statements of relief requested by  
5 Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
6 requested relief and denies any allegations contained in this Paragraph.

7           9.       Masterfile's prayer for relief sets forth the statements of relief requested by  
8 Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
9 requested relief and denies any allegations contained in this Paragraph.

10          10.       Masterfile's prayer for relief sets forth the statements of relief requested by  
11 Masterfile, to which no response is required. Dr. Addison denies that Masterfile is entitled to the  
12 requested relief and denies any allegations contained in this Paragraph.

### 13                                   **JURY TRIAL DEMAND**

14          Masterfile's demand for a jury trial for its foregoing counts does not state any allegation,  
15 so Dr. Addison is not required to respond. To the extent that any allegations are included in the  
16 demand, Dr. Addison denies those allegations.

### 17                                   **AFFIRMATIVE DEFENSES**

18          Dr. Addison alleges and asserts the following defenses in response to Masterfile's  
19 allegations, undertaking the burden of proof only as to those defenses deemed affirmative  
20 defenses by law, regardless of how such defenses are denominated herein. In addition to the  
21 defenses described below, Dr. Addison specifically reserves all rights to allege additional  
22 defenses that become known through the course of discovery.

#### 23                                   **First Defense: Failure to State a Claim**

24          1.       Masterfile's allegations in its Complaint fail to state a claim upon which relief can  
25 be granted.

#### 26                                   **Second Defense: Unregistered Works**

27          2.       Upon information and belief, the allegedly copyrighted work that Masterfile  
28 alleges was infringed has not been properly registered with the U.S. Copyright Office, and

1 therefore Masterfile's Copyright Infringement claim as to its unregistered work is therefore  
2 barred by 17 U.S.C. § 411.

3 **Third Defense: Fair Use**

4 3. Any copying or use by Dr. Addison of Masterfile-owned copyrighted work, if any,  
5 was within the scope of and permitted by 17 U.S.C. § 107 and the associated "fair use" doctrine.

6 **Fourth Defense: First Publication**

7 4. Masterfile is barred under 17 U.S.C. § 412 from recovering statutory damages or  
8 attorneys' fees pursuant to 17 U.S.C. § 504 because any copyright that Masterfile alleges to have  
9 been infringed by Dr. Addison was not registered within three months of publication.

10 **Fifth Defense: Principles of Equity**

11 5. Masterfile's complaint is barred in whole or in part by principles of equity  
12 (including, without limitation: laches, waiver, estoppel, acquiescence, and/or unclean hands).  
13 Masterfile's alleged damages (if any) were caused in whole or in part by Masterfile's own  
14 conduct.

15 **Sixth Defense: Innocent Intent**

16 6. Each of Masterfile's claims for relief is barred because Dr. Addison's conduct was  
17 at all times in good faith and without willful intent, as evidenced by her practice of searching only  
18 for images that are either identified to be not subject to copyright restrictions, licensed under  
19 Creative Commons, permissible for commercial use, and/or permissible to modify, which is how  
20 she located the disputed image.

21 DATED: March 21, 2016

**PERKINS COIE LLP**

22  
23 By: /s/ Christian Lee  
Christian Lee

24 Attorneys for Defendant  
25 Dr. Sheila Addison  
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**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury under the laws of the United States, that a true and correct copy of the above document has been served on March 21, 2016 to all counsel of record who are deemed to have consented to electronic service via the Court's ECF system per Civil Local Rule 5-1.

/s/ Christian Lee  
Christian Lee